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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,099	03/13/2001	Gayle Marie Frankenbach	8244	2087

27752 7590 07/29/2009
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER

NGUYEN, TRI V

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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07/29/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

1. Upon the response on 05/13/09, claims 1-11, 15-18, 22, 24-53, 56-75 and 77-80 are pending. Claims 12-14, 19-21, 23, 54, 55 and 76 are cancelled.
2. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) for the reasons set forth in the office action dated 05/12/08.
3. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Canadian Advertising Success Stories 1999: Sunlight Laundry Detergent" document for the reasons set forth in the office action dated 05/12/08.
4. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Indiana Marketing Educators' Update" document for the reasons set forth in the office action dated 05/12/08.
5. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of Trinh et al. (US 5,977,055) for the reasons set forth in the office action dated 05/12/08.

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Response to Arguments

6. Applicant's arguments filed regarding Frankenbach et al. have been fully considered but they are not persuasive.

The declaration under 37 CFR 1.132 filed 05/13/09 is insufficient to overcome the rejection of claims 1-11, 15-18, 22, 24-53, 56-75 and 77-80 based upon the cited references (see above for details) as set forth in the Office action dated 05/12/08.

In the remarks, applicants argue that the rejection under US 6,491,840 is not "by another" as shown by a 132 declaration by one inventor, Gayle Marie Frankenbach. In particular, it seems like applicants are attempting to show attribution with the 132 declaration. It is noted that to show attribution, the declaration must provide an uncontradicted, unequivocal statement about the inventorship of the presently claimed invention with respect to what was disclosed but not claimed in the other reference; MPEP 716.10 states "[...] it is incumbent upon the inventors named in the application, in response to an inquiry regarding the appropriate inventorship under 35 U.S.C. 102(f) or to rebut a rejection under 35 U.S.C. 102(a) or (e), to provide a satisfactory showing by way of affidavit under 37 CFR 1.132 that the inventorship of the application is correct in that the reference discloses subject matter derived from the applicant rather than invented by the author, patentee, or applicant of the published application notwithstanding the authorship of the article or the inventorship of the patent or published application. In re Katz, 687 F.2d 450, 455, 215 USPQ 14, 18 (CCPA 1982)"; thus the latest 132 declaration filed on 05/13/09 is not found persuasive and compliant since the declaration does not provide that uncontradicted, unequivocal statement. For example, at paragraph 3, Gayle Marie Frankenbach states: "The subject matter of one or more of the claims of the present application including but not limited to 1-11, 15-18, 22, 24-53, 56-75, and 77-80 which is disclosed but not claimed in U.S. Patent No. 6,491,840 was conceived and/or invented by me."

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The 132 declaration is contradicted by other documents in the application – e.g. the Bib Data Sheet lists 12 other co-inventors. Contrary to her statement in the declaration, Ms. Frankenbach is not the sole inventor of the present claims.

Furthermore, The 132 declaration also found to be equivocal: inventor Frankenbach states that one or more of the claims were invented by her, but it is not clear which ones.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI V. NGUYEN whose telephone number is (571)272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./
Examiner, Art Unit 1796
July 29, 2009

/Lorna M Douyon/
Primary Examiner, Art Unit 1796